

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

AMENDMENTS TO THE REGULATION TO ESTABLISH A STATEWIDE PORTABLE EQUIPMENT REGISTRATION PROGRAM

UPDATED INFORMATIVE DIGEST OF ACTION

Actions and Sections Affected: Title 13, California Code of Regulations, sections 2450-2466.

Background: Historically, the local air pollution control and management districts (districts) have regulated portable equipment through stationary source permitting programs. In 1995, the California Legislature adopted section 41750 et seq. of the Health and Safety Code. Section 41752 mandates the Air Resources Board (ARB/Board) to develop and implement a uniform system for California-wide registration and regulation of portable equipment.

In 1997, the Air Resources Board adopted the Regulation to Establish a Statewide Portable Equipment Registration Program (Statewide Registration Program/Program). The Statewide Registration Program provides an alternative to the system of district-by-district regulation of portable equipment, which includes equipment powered by portable engines and associated equipment.

In addition to adopting the Program, the Board directed staff, in consultation with local air pollution control and air quality management districts (districts), affected industry, and the United States Environmental Protection Agency (U.S. EPA), to evaluate the applicability of the Statewide Registration Program to portable engines operated in California coastal waters and to address any implementation issues. The Board also instructed staff to report back within one year of implementation of the Program with any recommended amendments.

Description of the Regulatory Action: During the first year of implementation of the Statewide Registration Program, staff worked with industry representatives, districts, and the U.S. EPA to follow-up on the Board's direction. Based on these efforts, amendments to the Program were developed, with changes to applicability, emission controls, and administrative procedures.

The Statewide Registration Program will include engines and equipment units operating in State Territorial Waters (STW) and equipment units subject to NSPS Subpart OOO, and exclude the operation of equipment units that emit Hazardous Air Pollutants at a specific site. The emission control requirements have been revised for spark-ignition engines and dredge engines, and new requirements have been included for tub grinders and trommel screens. The application submission deadlines have been extended to accommodate the equipment that will be eligible once the amendments take effect.

The control requirements of the Statewide Registration Program will continue to be based on Best Available Control Technology (BACT), Reasonably Available Control Technology (RACT)

or Best Available Retrofit Control technology (BARCT). The amendments to the Statewide Registration Program will continue to require appropriate control technologies that preserve the intent of district-required BACT, RACT, and BARCT.

Most owners of registered portable equipment will be still required to maintain daily operational records and submit quarterly summaries to the ARB annually. Approvable methods of daily recordkeeping are specified in the amendments for clarification. Records will be required that list the equipment registration number, month, day and year, location where the equipment was used, and either total fuel used or actual hours of operation.

A 45-day notice was published prior to the Board hearing to adopt these amendments to the Program. At the Board hearing, testimony was given that resulted in the Board making changes to the proposed amendments, and a 15-day notice of these new changes was published. The 15-day changes consisted of allowing air districts to perform an ambient air quality impact analysis on the operation of portable equipment in the STW, and the emission requirement amendment for spark-ignition engines was excluded in the South Coast Air Quality Management District.

Consistency with Related Federal, State, or Local Requirements: In developing the amendments for the Statewide Registration Program, ARB staff took care to ensure that the requirements and provisions of the Statewide Registration Program did not conflict with federal law. The federal Clean Air Act (CAA) expressly preempts ARB and the districts from adopting and enforcing emission standards and other requirements (other than in-use operational controls) related to the control of emissions from new nonroad engines (which include portable engines) under 175 horsepower used in farm and construction equipment and vehicles. In addition, the CAA appears to implicitly preempt the districts from adopting and enforcing emission regulations on other nonroad engines (portable engines manufactured after November 15, 1990), except for in-use operational controls, such as daily and annual emission limits and fuel specifications. While so limiting the districts, Congress gave ARB the flexibility to adopt and enforce regulations for these other nonroad engines upon receiving authorization from the U.S. EPA. Such authorization has not yet been granted, so the Statewide Registration Program will continue to register nonroad engines without imposing additional emission standards beyond those mandated for California- or federally-certified newly-manufactured engines.

Portable equipment is used for many operations located in the State Territorial Waters (STW) and the Outer Continental Shelf (OCS). The U.S. EPA has delegated the authority to implement and enforce the federal OCS regulation to the districts. Existing federal law does not permit the U.S. EPA to grant dual permitting authority over OCS sources by allowing a district to regulate offshore stationary sources and the ARB to regulate offshore portable equipment. As a result, sources operating within the OCS will continue to be excluded from registration in the Statewide Registration Program. Federal law, however, does not restrict ARB's ability to register portable engines and equipment units operating within STW. Furthermore, the amendments to the Statewide Registration Program give the local onshore districts the authority to grant approval for the operation of STW projects. This allows the district to evaluate and mitigate the project's

impact on local air quality.

The amendments to the Statewide Registration Program will maintain the current enforcement practices for federal NSPS sources registered in the Statewide Registration Program. Districts with delegated authority from U.S. EPA would continue to enforce Subpart OOO requirements and conduct inspections. In districts without delegated authority from U.S. EPA, enforcement would continue to be the responsibility of the U.S. EPA.

Cost to Industry and Others: The ARB will continue to collect fees for registration, renewal, and associated administrative tasks. Those fees are lower than the corresponding fees currently charged by the districts. The districts will retain the ability to collect inspection fees. The amendments to the Statewide Registration Program allow the districts to collect additional fees associated with the inspection and enforcement of sources subject to NSPS Subpart OOO. Overall, the Statewide Registration Program fees are still expected to lower the costs of being regulated to most businesses owning or operating portable equipment in multiple districts. Local, State, and federal agencies with eligible equipment for registration are also expected to benefit from participation in the Statewide Registration Program.